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SUBJECT: GOI CONCERNS OVER DE SOTO LETTER ON JERICHO  
PRISONERS AND REVENUE TRANSFERS

Classified By: Acting Deputy Chief of Mission Norman Olsen: reasons: 1.  
4 (B/D)

1. (C) Roni Leshno Yaar, the Israeli MFA's deputy director general (A/S-equivalent) for international organizations, contacted deputy polcouns on March 21 to inform of us of an exchange of letters with UN Special Envoy Alvaro de Soto on the aftermath of the GOI raid of March 14 on the Jericho prison. Yaar complained about what he called de Soto's one-sided position urging the GOI to return the Palestinians seized in the raid and to resume revenue transfers to the Palestinian Authority. Yaar said that de Soto linked these Israeli actions to the Quartet's condition that a new PA government accept its own previous agreements. He expressed concern that de Soto's position may represent an initial UN move to break away from the agreed Quartet position of January 30. Yaar (please protect) provided post with copies of the exchange of letters on March 22 (see below).

2. (SBU) Begin text of letter dated March 19, 2006, from UN Special Coordinator de Soto to Israeli FM Tzipi Livni:

United Nations Office of the Special Coordinator for the  
Middle East Peace Process  
Jerusalem, 19 March 2006

Excellency

I refer to the removal by Israeli forces, on 14 March 2006, of Palestinian prisoners from the prison in Jericho.

Palestinian Authority President Mahmoud Abbas has raised with me his concern on this matter. He has asserted, in particular, that there is no legal basis for Israel to hold or try the six Palestinian prisoners held at the Jericho prison pursuant to the 2002 Ramallah agreement or a further 22 whose names were among those provided by the Palestinian Authority to Israel pursuant to the 8 February 2005 Sharm el Sheikh understandings. He therefore demands that these prisoners be immediately returned to Palestinian custody.

Your Excellency will no doubt understand the importance, at a time when we are all expecting a new Palestinian government to be committed, inter alia, to acceptance of previous agreements and obligations, of Israel being in compliance with its own obligations under previous agreements. It is difficult to demand of the Palestinian government that it adhere to existing Palestinian undertakings if there is any question regarding Israel's adherence to obligations on matters such as the one raised in this letter. (I would observe that this applies also to the transfer of VAT and customs duties collected by Israel on behalf of the Palestinians, which I raised in the most recent meeting of the Task Force on Project Implementation.)

I would therefore greatly appreciate clarification, at Your Excellency's earliest convenience, regarding the legal basis for Israel to hold or try the above mentioned prisoners.

Please accept, Excellency, the assurance of my highest consideration.

Signed Alvaro de Soto  
Special Coordinator  
End text of letter.

3. (SBU) Begin text of reply letter dated March 21, 2006, from MFA IO DDG Aharon "Roni" Leshno Yaar to Special Coordinator de Soto:

Ministry of Foreign Affairs  
Jerusalem  
21 March 2006

Dear Mr. De Soto,

I refer to your letter of March 19, 2006 to the Minister of Foreign Affairs.

According to the version of events presented in your letter, Israel, with no justification or cause, "removed Palestinian prisoners from the prison in Jericho" and now continues to detain them although "there is no legal basis for Israel to hold or try (them)."

In fact, it will be recalled that these six terrorists, unequivocally responsible for numerous terrorist attacks against Israeli civilians, including the assassination of Israel's Minister of Tourism, Rehavam Zeevi, as well as the attempted smuggling of illegal weaponry aboard the Karine A ship, were detained in Jericho as the result of a specific international agreement, reached in April 2002 through mediation by the U.S. and U.K.

Under the terms of this agreement, the terrorists were to be detained in Jericho subject to clear and specific conditions to be verified by monitors from the U.S. and U.K.

The Palestinian side never implemented these agreed arrangements. Indeed, in a letter dated March 8, 2006 addressed to PA Chairman Mahmoud Abbas, the American and British Consuls protested, inter alia, that:

"The Palestinian Authority has never fully complied with basic provisions of the agreement that establishes the US and UK Jericho Monitoring Mission ... the Palestinian Authority has consistently failed to comply with core provisions of the Jericho monitoring arrangement ... Repeated demarches by our government to the highest levels of the Palestinian Authority have not resulted in improved compliance with the Jericho monitoring arrangements."

As a result of ongoing Palestinian violations, and the failure of the Palestinian side to ensure their security, the international monitors decided to evacuate the Jericho facility. As the British Foreign and Commonwealth Office made clear in a written Ministerial Statement on March 14, 2006:

"The Palestinian Authority has consistently failed to meet its obligations under the Ramallah Agreement. Ultimately the safety of our personnel has to take precedence."

Repeated public admissions were made by Hamas representatives that they intended to free the detainees, and Chairman Mahmoud Abbas himself made it clear that he saw no problem with this.

Now that these individuals are in Israeli custody, Israel will act in accordance with relevant legal procedures and with appropriate judicial oversight. We have no intention of neglecting the legal rights of these detainees, just as we have no intention of allowing those involved in murder and terrorism to roam free.

It is troubling to find in your letter a one-sided insistence on Israel's compliance with previous agreements, with absolutely no reference to the responsibilities of the Palestinian side - either to comply with the provisions of these agreements or to satisfy the three clear criteria for legitimacy established by the Quartet. To be absolutely clear, Israel is under no obligation to allow terrorists to roam freely, or to transfer funds without any guarantee that these will not be funneled to terrorists organizations. There are, however explicit Palestinian obligations to arrest and disarm terrorists and dismantle the terrorist infrastructure.

It is perhaps not surprising that Mr. Abbas would avoid referring to Palestinian obligations in his conversations with you. However, we would have expected that, as Special Representative of the Secretary General, you would have acted in accordance with the position of the Quartet of January 30th, and insisted on compliance with Palestinian undertakings, rather than simply acting as a mouthpiece for unjustified Palestinian allegations to the Israeli side.

Yours sincerely,

Signed Aharon Leshno Yaar  
Deputy Director General  
Head of U.N. & International Organizations Division

End text of Israeli letter.

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JONES